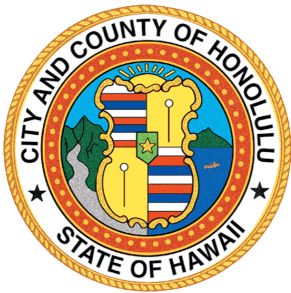




Office of the City Auditor



City and County of
Honolulu
State of Hawai`i

Report to the Mayor
and the
City Council of Honolulu

Follow-Up on Recommendations from Report No. 19-03, *Audit of the Permitting and Inspection of Large Detached Dwellings, Resolution 18-223, FD1*

Report No. 25-03
April 2025

**Follow-Up on Recommendations
from Report No. 19-03, *Audit of
the Permitting and Inspection
of Large Detached Dwellings,*
Resolution 18-223, FD1**

A Report to the
Mayor
and the
City Council
of Honolulu

Submitted by

THE CITY AUDITOR
CITY AND COUNTY
OF HONOLULU
STATE OF HAWAII

Report No. 25-03
April 2025



OFFICE OF THE CITY AUDITOR

KE KE'ENA O KA LUNA HŌ'OIA

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April 1, 2025

The Honorable Tommy Waters, Chair
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawai'i 96813

Dear Chair Waters and Councilmembers:

Attached is a copy of our audit report, ***Follow-Up on Recommendations from Report No. 19-03, Audit of the Permitting and Inspection of Large Detached Dwellings, Resolution 18-223, FD1***. This audit was conducted pursuant to Section 3-502.1(d), Revised Charter of Honolulu, which authorizes the Office of the City Auditor to conduct follow-up audits and monitor compliance with audit recommendations.

The original audit was issued in November 2019 and was conducted pursuant to *Resolution 18-223, FD1*, which requested the City Auditor to conduct a performance audit of the city's permitting and inspection processes for large detached dwellings. Report No. 18-223 made 15 recommendations to the Department of Planning and Permitting.

In this follow-up audit, we found that 7 recommendations are *completed*, 2 are *resolved*, 5 are in *in-process*, and 1 recommendation is *dropped*. In response to a draft of this audit, the Director of the Planning and Permitting and the Managing Director generally concurred with our findings and committed to addressing the recommendations that we deemed in-process. A copy of management's full response can be found in Appendix B.

We would like to express our sincere appreciation for the cooperation and assistance provided to us by the managers and staff of the Department of Planning and Permitting. The audit team is available to meet with you and your staff to discuss this report and to provide more information. If you have any questions, please call me at 768-3134.

Sincerely,

A handwritten signature in black ink, reading "Troy Shimasaki", is positioned below the word "Sincerely,".

Troy Shimasaki
Acting City Auditor

c: Rick Blangiardi, Mayor
Michael D. Formby, Managing Director
Krishna F. Jayaram, Deputy Managing Director
Dawn Takeuchi Apuna, Director, Department of Planning and Permitting
Andrew Kawano, Director, Department of Budget and Fiscal Services

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Follow-Up on Recommendations from Report No. 19-03, *Audit of the Permitting and Inspection of Large Detached Dwellings, Resolution 18-223, FD1*

April 2025

Background

This is a follow-up audit to the Audit of the Permitting and Inspection of Large Detached Dwellings, Resolution 18-223, FD1. On November 14, 2018, the Honolulu City Council adopted City Council Resolution 18-223, FD1, requesting a performance audit of the Department of Planning and Permitting to determine the effectiveness of the city's permitting and inspection processes for large detached dwellings. The completed audit was issued on November 13, 2019.

The Department of Planning and Permitting (DPP) is responsible for the City and County of Honolulu's major programs and laws related to land use, from long-range policy planning, community planning and zoning, to infrastructure assessments and regulatory development codes. DPP also manages the Geographic Information System used by various governmental agencies and private businesses. The department provides administrative support to the Planning Commission, Zoning Board of Appeals, Building Board of Appeals and the Design Advisory Committee.

The audit found that DPP needed to more effectively manage data from permitting and inspection to properly review and regulate large detached dwellings. The lack of assembled information led to administrative difficulties and delays in researching, reviewing, and monitoring construction projects systemically or individually. The department also fell short in assessing the risks of complaints received and violations issued concerning large detached dwellings. Since it was not effective in identifying emerging risks, it could not adequately address how building permits for large detached dwellings were issued, buildings were inspected, or land use/illegal uses were investigated. DPP did not identify potential issues during the permit review stage and subsequent monitoring, but dealt with complaints from the public that emerged during or after construction. These conditions made the department less able to ensure orderly development according to land use policies, zoning, and maintain designation of certain uses within the residential zone.

The audit offered 15 recommendations:

1. Assemble its information regarding qualifying large detached dwellings to enable its use in permitting, inspection, and use enforcement operations;
2. Develop lists of at-risk large detached dwellings now considered non-conforming or subject to additional requirements for monitoring and enforcement purposes;
3. Develop at-risk criteria derived from complaints and violations throughout its permitting, inspection, and enforcement actions based on observed problematic issues and their effects;
4. Amend current policies and procedures to establish response priorities for complaints based first on individual complaints from the public followed by other complaint sources;






5. Apply existing law to expire plan review on building permits that have exceeded a year, and pursue applicants for renewal of plan review fees;
6. Improve its administration of the residential covenants requirement to document decision making, controls used, and residential covenants filed;
7. Apply existing law to implement criminal enforcement options for residential covenant use violations;
8. Apply existing law to revoke building permits that have exceeded their validity with no satisfactory progress in the interest of conforming development to current laws and regulations;
9. Create policies and procedures to implement a periodic inspection program for properties with temporary certificates of occupancy;
10. Create policies and procedures to implement rotations of permitting, inspection, and enforcement staff to minimize opportunities or appearances of wrongdoing, abuse, or conflicts in their duties;
11. As necessary to order and safety, consider increasing fees for violators of no building permits, not following plans, or unplanned internal alterations or partitions as clearly against current orderly building and residential development;
12. As necessary to order and safety, apply existing law to pursue criminal prosecution for violators with demonstrated disregard for current codes;
13. Create policies and procedures for coordinating the close out of violations and outstanding fees and fines;
14. Apply existing law to pursue liens and foreclosure on eligible violators to secure the city's interest in outstanding fines, safety, and orderly use and development; and
15. Consider assessing fines for violations from the initial day of violation, rather than the time after a notice of order.

The Managing Director and the Department of Planning and Permitting broadly accepted the findings of the audit report. The department indicated its agreement that developing a more robust system via its permit review software would improve monitoring of large detached dwellings during permit review and construction. It also sought to increase double fee penalties on violators who submit building permit applications after starting unauthorized construction.

The objective of this follow-up audit is to report on the status of DPP's implementation of the original 15 recommendations made in Report No. 19-03.

Summary of Follow-Up Results

Based on our review, we found that of the 15 recommendations made in Report No. 19-03, 7 are completed, 2 are resolved, 5 are in process, and 1 is dropped. The summary table highlights these results.

 Completed	 Resolved	 In Process	 Not Started	 Dropped
7	2	5	0	1
Agency has sufficiently implemented the audit recommendation.	Although agency did not implement the audit recommendation, it implemented an alternative solution that sufficiently addressed the applicable audit finding or risk.	Agency started or has partially implemented the audit recommendation.	Agency has not begun implementation of the recommendation.	Agency has no plan to implement the recommendation; the risk associated with the recommendation no longer exists, or is no longer applicable.

Recommendation 1



Assemble its information regarding qualifying large detached dwellings to enable its use in permitting, inspection, and use enforcement operations.

STATUS UPDATE

According to the department, in June 2022, department staff examiners identified at-risk properties by: (1) manually confirming any floor area ratios (FAR) of 0.54 or greater for residential plans, (2) listing plans with an FAR of 0.54 or more from the past 24 months in a spreadsheet, and (3) emailing the Deputy Director with project details for further review. Additionally, the Building Inspection Section (BIS) flagged potential *monster homes* with a FAR of 0.57 or higher, as well as noting concerns like the number of bathrooms, kitchens, and parking.

For this review, we selected a judgmental sample of 15 permit applications from the large detached dwellings data provided by the department, from FY 2019-FY 2024. The sample was drawn from three application categories: permit revoked, permit in process, and permit approved to issue. These samples were chosen based on their high-risk status, with FAR close to 0.60 or 0.70.

Exhibit 1.1 Sample of Testing

Category	Findings
Permit Revoked	- For the 5 permit-revoked applications, we reviewed the explanations and justifications for the revocations and determined that the department revoked applications appropriately.
Permit In-Process	- For the 5 applications currently in process, their creation dates span from 2021 to 2023, and as of January 2025 they remain open and have not yet been closed out.
Permit Approved	- For the 5 approved applications, we found that the applicants underwent proper review and were approved accordingly.

Source: DPP and OCA Analysis

We found that the department gathered appropriate information for permitting, inspections, and enforcement actions, and there were instances where the department revoked permits after review when necessary. We consider this recommendation to be completed.

Recommendation 2



Completed

Develop lists of at-risk large detached dwellings now considered non-conforming or subject to additional requirements for monitoring and enforcement purposes.

STATUS UPDATE

In June 2022, the department identified at-risk detached dwellings based on the following criteria:

- (1) Manually confirming any FAR of 0.54 or greater for residential plans,
- (2) Listing plans with a FAR of 0.54 or more from the past 24 months in a spreadsheet, and
- (3) Emailing the deputy director with project details for further review.

Additionally, the Building Inspection Section flagged potential *monster homes* with a FAR of 0.57 or higher and noted concerns such as the number of bathrooms, kitchens, and parking. The department emphasized their commitment to follow the land use ordinance requirements during the permit and inspection reviews to monitor and enforce regulations on the at-risk properties. If the plans or construction do not meet the requirements, there is no approval for a building permit until compliance is met. Following the permit issuance, an inspection of at-risk properties for noncompliance may lead to the issuance of a Notice of Violation, a Notice of Orders for fines, or permit revocation.

Based on the department's actions to identify at-risk detached dwellings and enforce land use ordinance requirements, we found that the department's actions fulfill the intent of this recommendation and consider it to be completed.

Recommendation 3



Completed

Develop at-risk criteria derived from complaints and violations throughout its permitting, inspection, and enforcement actions based on observed problematic issues and their effects.

STATUS UPDATE

In January 2025, the department implemented new permitting software that will improve the tracking and reporting on issues related to monster homes, including details like FAR and the proposed number of bedrooms/kitchens. In addition, the department is collaborating with a vendor to develop Artificial Intelligence (AI) that will pre-screen building permit applications to prevent plans that violate monster home standards. The implementation of this new system is currently underway, with an 18-month timeline, and will enhance data aggregation and reporting to better identify trends related to monster homes.

We encourage the department to continue to enhance the effectiveness of the new permitting software and AI-driven pre-screening system. The department should regularly assess the software's performance and make adjustments to improve accuracy in identifying key characteristics.

Based on our review of the sample and findings conducted in Recommendation 1 and the implementation of the new permitting software and its AI-driven capabilities, we conclude that the department has taken the necessary steps to meet the intent of this recommendation and consider it to be completed.

Recommendation 4



In Process

Amend current policies and procedures to establish response priorities for complaints based first on individual complaints from the public followed by other complaint sources.

STATUS UPDATE

We found that the department has continued prioritizing complaints from the Office of the Mayor, followed by those from other sources such as the Honolulu City Council and the public. This has been a practice since the original audit. Additionally, complaints from the Office of the Mayor have consistently been resolved within two weeks. The department provided a draft policy that identifies timelines for addressing all complaints. However, it has not yet been formally adopted. By formally incorporating complaint priorities and timelines into its operating procedures, department staff, the city council, and the public will have reasonable expectations for when DPP will respond to public complaints.

NEXT STEPS

We encourage the department to amend its current policies and procedures to formally establish complaint response timelines that include complaints from the public.

Recommendation 5



Completed

Apply existing law to expire plan review on building permits that have exceeded a year, and pursue applicants for renewal of plan review fees.

STATUS UPDATE

In 2022, the department implemented an automatic notification system in POSSE to inform customers when their application is nearing the 365-day deadline, which allows permittees to request an extension with reasonable justification. We reviewed the alert system and found that the notification prompts permit applicants that the 365-day deadline is nearing, which meets the intent of this recommendation, and we consider it to be completed.

Recommendation 6



Completed

Improve its administration of the residential covenants requirement to document decision making, controls used, and residential covenants filed.

STATUS UPDATE

On September 2, 2020, the city enacted Ordinance 20-28, which requires that a residential dwelling building permit application be accompanied by a duly notarized affidavit executed by a person with a proprietary interest in the subject property, affirming that (1) the proposed construction complies with all applicable restrictive covenants relating to the maximum number of dwelling units permitted on the zoning lot, and the minimum yard (setback) requirements for the zoning lot; and (2) the proposed use complies with the building, electrical, plumbing, and sidewalk codes, and the land use ordinance. This also authorizes the department director to suspend or revoke the building permit if it was issued on the basis of incorrect information.

The ordinance has improved the department's administration of residential covenant requirements, including the documentation of decision-making processes, controls implemented, and covenants filed. As a result, we consider this recommendation to be completed.

Recommendation 7



Resolved

Apply existing law to implement criminal enforcement options for residential covenant use violations.

STATUS UPDATE

At the time of the original audit, Ordinance 19-3, did not empower the department to enforce criminal options for residential covenant use violations. Enactment of Ordinance 24-13 in June 2024, strengthened administrative enforcement options for violations related to large detached dwellings. This ordinance introduced increased penalties, including a \$25,000 initial civil fine and up to \$10,000 per day for each violation. It enables the department to hold violators accountable and allows the department to recover costs related to audits, revocations, and defense processes at the Building Board of Appeals. This ordinance, which replaced prior law, enhances the department's ability to enforce compliance and deter further violations. We consider this recommendation resolved.

Recommendation 8



Completed

Apply existing law to revoke building permits that have exceeded their validity with no satisfactory progress in the interest of conforming development to current laws and regulations.

STATUS UPDATE

We found an example of a notable revocation that occurred at the 3615 Sierra Drive property, where a stop work order was issued. The project violated the city's land use ordinance, leading to the revocation of three building permits. The property had 15 bathrooms and 4 wet bars that were not included in the developers' submitted plans for the building permit. The department released press statements regarding both the revocations and the upholding of the revocation to inform the public of its commitment to fully enforce regulations against violators of monster home rules. This serves as a reminder that there are serious consequences for illegally constructing *monster homes*. With the passage of Ordinance 24-13 (Bill 52) and the high-profile case example at the Sierra Drive property, we consider this recommendation to be completed.

Recommendation 9



In Process

Create policies and procedures to implement a periodic inspection program for properties with temporary certificates of occupancy.

STATUS UPDATE

On December 09, 2020, the Honolulu City Council adopted Ordinance 20-43, aimed at strengthening regulations on large residential structures in residential districts. The ordinance grants the department the authority to issue a Temporary Certificate of Occupancy (TCO) which now provides a two-year period for the department to conduct periodic inspections of buildings with FAR exceeding 0.60. This is a change compared to Ordinance 19-3, adopted in May 2019, which allowed for a one-year inspection period. At the end of the two-year period that the TCO is in effect, the department may, upon final inspection, issue a Certificate of Occupancy for the detached dwelling or duplex and close the building permit.

The department stated they are in the process of developing a policy for the TCO, which will include collecting data on properties with a TCO and its expiration date, and intends to have the policy completed by the third quarter of 2025. The department added that data on TCO is not easily accessible, which presents a challenge when tracking the current number of TCO issued for large residential developments. The department explained that it has begun training new and existing staff on the large residential requirements to help them identify potential issues with construction that deviates from approved plans, which could violate the ordinance.

Based on our review of Ordinance 20-43 and the department's target to implement a TCO policy by the third quarter of 2025, we consider this recommendation in process.

NEXT STEPS

The department should formalize its policies and procedures to conform with Ordinance 20-43 related to TCO and ensure that staff follow those established procedures.

Recommendation 10



In Process

Create policies and procedures to implement rotations of permitting, inspection, and enforcement staff to minimize opportunities or appearances of wrongdoing, abuse, or conflicts in their duties.

STATUS UPDATE

Although the department has not yet established a formal policy or procedure for rotating permitting, inspection, and enforcement staff to reduce the potential for wrongdoing, abuse, or conflicts of interest, the department provided a working draft of a policy and procedure for inspector rotation. We found that there are several options available for the department to rotate staff for reviews. We determine this recommendation to be in-process.

NEXT STEPS

We encourage the department to formally develop policies and procedures for implementing regular rotations in permitting, inspection, and enforcement, as well as addressing the filling of vacancies.

Recommendation 11



Resolved

As necessary to order and safety, consider increasing fees for violators of no building permits, not following plans, or unplanned internal alterations or partitions as clearly against current orderly building and residential development.

In its original response to Report No. 19-03, DPP agreed and stated that they are considering increasing the "double fee penalty" for those applications submitted after work has begun.

STATUS UPDATE

Ordinance 20-18, which was adopted on June 3, 2020, increased the double fee penalty to triple the fee for construction that started or proceeded without an authorized building permit. The department confirmed that for violators who were given a Notice of Violation, the permit fees would be tripled as necessary. As a result, we consider this recommendation resolved.

Recommendation 12



As necessary to order and safety, apply existing law to pursue criminal prosecution for violators with demonstrated disregard for current codes.

In its original response to Report No. 19-03, DPP disagreed with this recommendation. DPP stated that civil fines were established because of the ineffective criminal prosecution process. The department explained that they would have to double the inspection resources to meet the evidentiary requirements of criminal prosecution, with no guarantee that it will be faster or more effective. The department also states that under Act 114 (2019), making false statements to a county inspector is a misdemeanor offense. However, the department does not anticipate prosecuting at this level since they believe that this Act will have an impact on those who think that lying has no consequences.

STATUS UPDATE

We reviewed Ordinance 24-13, Bill 52 (2023), which was adopted on June 5, 2024, and found that the director has the authority to immediately issue a Notice of Order rather than require criminal prosecution. The department explained that criminal enforcement requires significant resources from the Prosecuting Attorney's Office and the likelihood of conviction is low. Additionally, prosecuting and convicting developers demand a much higher standard of evidence, making successful outcomes unlikely. In contrast, enforcing this ordinance does not require such a high burden of proof, and it is more efficient in terms of resources and time. The department stresses that ongoing, thorough review, and enforcement, in line with Administrative Rule 23-02, such as mandating supervisor review of residential district projects with FAR close to 0.60 or 0.70, are adequate measures to address residential violations.

Following the adoption of Ordinance 24-13, we reviewed the large detached dwelling data provided by the department and observed that as of June 2024, there are 13 applications with FAR near 0.60 or 0.70. We found that the plan reviews for these applications are still in progress with completion time yet to be determined.

Additionally, the 3615 Sierra Drive property serves as an example, where the department revoked three building permits and issued a stop work order due to violations of the city's land use ordinance, including unapproved features such as 15 bathrooms and 4 wet bars. The department issued press releases to affirm its dedication to enforcing monster home regulations and the consequences of illegal construction. Although the department has not pursued criminal enforcement due to the anticipated resources required and low conviction rate, we believe the department took sufficient and appropriate action using Ordinance 24-13, Administrative Rule 23-02, and the 2024 data applications. We consider this recommendation completed.

Recommendation 13



In Process

Create policies and procedures for coordinating the close out of violations and outstanding fees and fines.

STATUS UPDATE

Although the department has not formally adopted written policy and procedures for coordinating the close out of violations and outstanding fees and fines, it provided a flowchart documenting its current process and the possible outcomes for closing out violations, fees, and fines. This flowchart is a good starting point for developing formal policies and procedures for department staff to follow and ensure a consistent approach for closing out violations, outstanding fees, and fines. According to the department, the fines collection branch is responsible to collect 100% of fines unless there are extenuating circumstances, which would allow the department to consider reduced fines. This is a significant change from the original audit period where we found that the department collected only 5% of fines. The department reports that, as of June 2023, at least \$152 million is still outstanding and remains uncollected from building code, housing code, and zoning code violations. The department has begun working with a collections agency to assist in collecting outstanding fines. Although the department's current practice is to improve fine collections, it has yet to formalize them through established administrative policies and procedures. We consider this recommendation in-process.

NEXT STEPS

The department should establish formal written policies and procedures for collecting outstanding fees and fines, writing off uncollectible fees and fines, and closing out violations.

Recommendation 14



In Process

Apply existing law and pursue liens and foreclosure on eligible violators to secure the city's interest in outstanding fines, safety, and orderly use and development.

STATUS UPDATE

The department reported that liens and foreclosure are the final steps in enforcement after all other efforts are completed and exhausted. Enforcement efforts include issuance of Notice of Violations and Notice of Orders, building permit revocation, conformance to new building permit requirements, and/or demolition of existing noncompliant structures. Our sample review did not identify any instance where a large detached dwelling continued construction or occupancy, despite enforcement actions. Although we did not identify any instances where the department should have taken steps to pursue liens and foreclosure, the department remains open to pursuing such action when all other enforcement actions have been exhausted.

NEXT STEPS

We encourage the department to take prompt legal action and continued collaboration with Corporation Counsel to ensure that violators are held fully accountable, while also collecting outstanding fess, and pursue liens and foreclosures on noncompliance.

Recommendation 15



Dropped

Consider assessing fines for violations from the initial day of violation, rather than the time after a Notice of Order.

In its original response to Report No. 19-03, the department disagreed with this recommendation as an opportunity must be first given to correct a violation before fines can be imposed per Section 46-1.5 (24), HRS.

STATUS UPDATE

The department did not implement this recommendation because of the legal requirement to provide reasonable notice prior to issuing fines. However, the department did consider the possibility of reducing the timeframe between the issuance of the Notice of Violation and the deadline for corrective action before fines are applied. Although this recommendation is considered dropped, we reiterate the point made in response to the original audit's management response. In our initial audit, we noted that if the department been more thorough in issuing notices for uncorrected violations, fines would have more accurately reflected the actual duration of noncompliance. This approach could enhance deterrence, enable more timely intervention, and mitigate risks associated with delays in resolving violations. Due to legal requirements related to reasonable notification, we consider this recommendation dropped.

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Appendix A

Audit Objectives, Scope, and Methodology

The objective of this follow-up audit is to determine whether the Department of Planning and Permitting has adequately addressed the 15 recommendations in Report No. 19-03, Audit of the Permitting and Inspection of Large Detached Dwellings, Resolution 18-223, FD1, with appropriate corrective actions. This follow-up audit is limited to reviewing and reporting on the implementation of the outstanding audit recommendations.

All 15 recommendations were reviewed in order to assess the extent to which the DPP's corrective actions are substantiated. We reviewed the original audit and requested updated responses for each recommendation. We reviewed supporting documentation pertinent to the follow-up audit. We assessed DPP's internal controls to the extent that they relate to the audit objectives. During the audit we were not aware of any other investigations, audits, or other work by other agencies that may impact our work.

We met with representatives of DPP to discuss our preliminary findings in order to identify any concerns or clarification that may be appropriate to the report. We then provided a written draft of the report that the department could use as a basis for its formal written responses to the follow-up audit.

The audit was conducted from January 2024 to April 2024. Fieldwork was temporarily suspended until September 2024 and completed in January 2025 in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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Appendix B

Management Response - Department of Planning and Permitting

**DEPARTMENT OF PLANNING AND PERMITTING
KA 'OIHANA HO'OLĀLĀ A ME NĀ PALAPALA 'AE
CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
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March 24, 2025

Mr. Troy Shimasaki, Acting City Auditor
Office of the City Auditor
City & County of Honolulu
1001 Kamokila Boulevard, Suite 216
Kapolei, Hawaii'i 96707

Dear Mr. Shimasaki:

SUBJECT: Follow-up on Recommendations from Report No. 19-03,
Audit of the Permitting and Inspection of Large Detached
Dwellings, Resolution 18-223, FD1.

Thank you for the opportunity to work with you and your staff, and to respond to the *Follow-up on Recommendations from Report No. 19-03, Audit of the Permitting and Inspection of Large Detached Dwellings, Resolution 18-223, FD1*.

The purpose of the original audit issued in November 2019, was to evaluate the Department of Planning and Permitting's (DPP's) management of the permitting of proposed large detached dwellings; evaluate the DPP's management of the building code inspection of permitted construction of large detached dwellings; evaluate the DPP's management of the residential code inspection of the uses of large detached dwellings; and make recommendations to improve the administration of permitting and inspection of large detached dwellings.

To address the public outcry against the proliferation of illegal large detached dwellings throughout our residential neighborhoods, better known as "monster homes," the DPP developed systems to prevent the permitting of monster homes and implemented comprehensive enforcement actions upon monster homes under construction. The DPP fought and prevailed on an appeal by a notorious monster homes developer, and proposed legislation to increase penalties for monster homes violations, to let the public know that there are significant consequences to breaking the law and building monster homes. As a result, the DPP has stemmed the tide of monster homes construction.

Mr. Troy Shimasaki
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Page 2

This follow-up audit report substantiates the DPP's efforts and progress to address the monster home problem by determining that, of the fifteen (15) recommendations, seven (7) are completed, two (2) are resolved, five (5) are in process, none (0) are not started, and one (1) was dropped due to the risk associated with the recommendation and is no longer applicable. The DPP agrees with these findings and provides the following comments.

Recommendation 4 (In Process) – *Amend current policies and procedures to establish response priorities for complaints based first on individual complaints from the public followed by other complaint sources.*

The DPP agrees with the follow-up audit's "NEXT STEPS" for this recommendation to officially adopt the draft in-effect policy that identifies timelines for timely addressing all complaints regardless of their source, and without prioritization. Complaints that come to the DPP from the Office of the Mayor, the Honolulu City Council, the Office of Information and Complaints are in fact public complaints that are channeled through these offices, and are of no more a priority or handled any differently than complaints received directly by the DPP from the public.

Notably, as the DPP adds much needed capacity by filling vacancies, it will further improve its response capability and times to the public.

Recommendation 9 (In Process) – *Create policies and procedures to implement a periodic inspection program for properties with temporary certificates of occupancy (TCO).*

The DPP agrees with the follow-up audit's "NEXT STEPS" for this recommendation to finalize and formally adopt policy and procedures to issue a TCO to conduct periodic inspections within two years of construction of a large dwelling. The TCO data is currently not easily accessible in the POSSE permitting software system to track the current number of TCOs issued for large residential developments. The full implementation of the Clariti permitting software replacement scheduled for Fall 2025, will have data reporting capabilities to better facilitate the TCO policy.

Recommendation 10 (In Process) – *Create policies and procedures to implement rotations of permitting, inspection, and enforcement staff to minimize opportunities or appearances of wrongdoing, abuse, or conflicts in their duties.*

Mr. Troy Shimasaki
March 24, 2025
Page 3

The DPP agrees with the follow-up audit's "NEXT STEPS" for this recommendation to officially adopt the draft rotation policy for inspections and enforcement staff.

For permitting staff, building permit applications are distributed for review by staff in order of receipt and not according to project type, location or other type. Large family dwellings are not reviewed by particular staff. All building plans examiners that perform residential code review, review large family dwellings as all other residential projects. Therefore, rotation of staff would have no effect and solve no perceived problem. The current system of distribution equally among all building plans examiners should ensure that there is no opportunity for specific staff to have greater responsibility or control over large family dwelling projects.

Recommendation 13 (In Process) – *Create policies and procedures for coordinating the close out of violations and outstanding fees and fines.*

The DPP agrees with the follow-up audit's "NEXT STEPS" for this recommendation to officially adopt the draft, in-effect policies and procedures for collecting outstanding fees and fines. The completion of the Clariti permitting software implementation scheduled for Fall 2025 must be finalized and integrated into these procedures prior to adoption.

Recommendation 14 (In Process) – *Apply existing law and pursue liens and foreclosure on eligible violators to secure the city's interest in outstanding fines, safety, and orderly use and development.*

The DPP agrees with the follow-up audit's "NEXT STEPS" for this recommendation to exhaust all enforcement remedies when the situation calls for it. Liens and foreclosures are not a practical enforcement measure for illegal large detached dwellings and the DPP consults with Corporation Counsel on the best enforcement mechanism under the circumstances of each case.

Violations of the large detached dwellings, i.e., "monster homes" law requires enforcement different from other DPP violation types based on the objective and intended outcome of the enforcement. For example, someone who continues to illegally rent a short-term rental (STR) is subject to daily fines for each day the illegal STR operates and/or posts an advertisement of the illegal STR. If this repetitive behavior continues even after a Notice of Violation (NOV) and Notice of Order is issued, a lien and/or foreclosure is the next logical step in enforcement to further disincentivize the owner from continuing the illegal STR use or advertisement.

Mr. Troy Shimasaki
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When an illegal monster home is under construction, or has been constructed and has been issued a NOV, Stop Work Order (SWO), and/or Notice of Revocation (NOR) by the DPP, the illegal behavior stops. The construction or the occupancy of the structure is halted until correction is made to the structure or plans corrected in conformance with the law. This has been the case with all monster homes that have been issued a NOV, SWO and/or NOR, and therefore, further enforcement through lien or foreclose upon the property is not warranted.

Should there be a case in the future where the owner of a monster home under construction or already constructed ignores the requirement to correct the violation and/or cease occupancy, we can then pursue liens and/or foreclosure, but this has yet to be the case. All of the monster home violators have submitted building permit applications to revise their plans in conformance with the law.

The next step in enforcement for monster home violations would be a greater deterrent such as the enhanced fines for monster homes violations, which the DPP proposed and the Council adopted under Ord. 24-13.

Recommendation 15 (Dropped) – *Consider assessing fines for violations from the initial day of violation, rather than the time after a Notice of Order.*

The Auditor states in part, “In our initial audit, we noted that had the department been more thorough in issuing notices for uncorrected violations, fines would have more accurately reflected the actual duration of noncompliance. This approach could enhance deterrence, enable more timely intervention, and mitigate risks associated with delays in resolving violations.”

The DPP respectfully questions the Auditor’s assessment that the DPP failed to timely intervene, and “mitigate risks associated with delays in resolving violations,” which may be an assessment made at the time of the original audit. Since then, during the current administration, the DPP initiated and executed the Auditor’s recommendations by issuing NOVs, SWOs and NORs for a long list of monster home violations, which halted the construction of these monster homes. Additionally, sufficient reasonable notice prior to fines issuance is a legal decision that is governed by the confines of the law, not a policy position to be made by the DPP.

Mr. Troy Shimasaki
March 24, 2025
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Thank you again for the opportunity to review and comment on this follow-up audit. The DPP is committed to completing the in-process recommendations as it strives to fully prevent and eliminate the construction of monster homes throughout our residential neighborhoods.

Very truly yours,



Dawn Takeuchi Apuna

APPROVED:



For

Michael D. Formby, Managing Director
Office of the Managing Director

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